

REMARKS

Claims 1, 2 and 4 have been amended. No claims have been canceled or added. Thus, claims 1-20 are currently pending in the case. Further examination and reconsideration of the presently claimed application is respectfully requested.

Section 102 Rejections

Claims 1-4, 8, 9, 12, and 14-20 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,438,746 to Martin (hereinafter "Martin"). The standard for "anticipation" is one of fairly strict identity. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), MPEP 2131. Martin does not disclose all limitations of the currently pending claims, some distinctive limitations of which are set forth in more detail below.

Martin does not disclose an apparatus (claim 15) or method (claim 1) for generating computer executable code, where the method includes creating a data set by modifying a comments portion of a program, and where the step of modifying includes activating a user-selectable link embedded within the comments portion. Amended independent claim 1 states in part, "[a] method for generating computer executable code, comprising: creating a data set by modifying a comments portion of a program, wherein said modifying comprises activating a user-selectable link embedded within the comments portion ..." Independent claim 15 (an apparatus) recites a similar limitation by including "a compiler for generating a data set... in response to user-activation of a link within a comments portion of a program." Support for the amendment to claim 1 may be found in independent claim 15 and in the Specification, for example, on page 3, lines 3-30 and page 4, lines 20-30.

As noted in a previous Response to the Office Action mailed December 8, 2003, Martin discloses a "compiler is provided for a distributed object system in which functional requirements on system performance criteria can be entered as comment fields in an object-oriented language" (Martin, Abstract). Martin, however, does not disclose an apparatus or method for generating computer executable code, where the method includes creating a data set by modifying a comments portion of a program, as taught in originally filed claim 1.

However, statements in the Final Office Action suggest that Martin does provide teaching for "creating a data set (1000b) by modifying (col. 5, lines 51-60) a comments portion (see Fig. 9) of a program" (Final Office Action, page 2). The Applicant respectfully disagrees for at least the reasons set forth in more detail below.

Martin neither expressly nor inherently describes the presently claimed method step of creating a data set by modifying a comments portion of a program, as recited in originally filed independent claim 1. On page 5 of the Final Office Action, however, the Examiner suggests that "Martin teaches in lines 51-60 [of col. 5] that the pre-compiler 316 is applied to the source code store 308 to generate amended code... to generate executable code." The Examiner also suggests "Martin further teaches in lines 34-39 of col. 7 that source code comprises comment statements." (Final Office Action, pages 5-6). Therefore, the Examiner concludes that "the teaching of 'the amended source code' implies that that the comment statements [were] modified, at least for excluding the // symbol preceding each comment statement before being compiled by the C++ compiler to generate executable code." (Final Office Action, page 6).

In response to the above Office Action statements, the Applicant concedes that the source code shown in Fig. 9 of Martin includes "a portion 1000a consisting of statements acted on by the C++ compiler 312, and a portion 1000b consisting of comment statements ignored by the C++ compiler 312." (See, Martin, col. 7, lines 34-39). The Applicant also concedes that the "pre-compiler 316 is applied to the source code ... to generate amended code, which is then compiled ... by the C++ compiler to generate executable code" (See, Martin, col. 5, lines 51-60). However, the Applicant strongly disagrees with the Examiner that by generating "amended code," Martin somehow inherently teaches the presently claimed step of modifying a comments portion of a program.

As noted above, the Examiner suggests that the step of modifying a comments portion of a program is taught in Martin "at least for excluding the // symbol preceding each comment statement before being compiled by the C++ compiler to generate executable code." The Applicant disagrees and asserts that excluding the "//" symbol (i.e., a comments designator) preceding each comment statement is NOT equivalent to modifying a comments portion of a program, as presently claimed. In fact, Martin specifically teaches that the "//" symbol instructs the C++ compiler to ignore the comment statements following the "//" symbol (See, e.g., Martin, col. 7, lines 40-47). One cannot reasonably conclude that ignoring a comments portion of a program, as taught by Martin, is somehow equivalent to modifying a comments portion of a program, as taught by the presently claimed case.

Thus, for at least these reasons, Martin fails to expressly or inherently describe the presently claimed step of modifying a comments portion of a program. As noted above, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. Of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), MPEP 2131. Consequently, Applicants assert that the anticipatory rejection of claim 1 over the teachings of Martin cannot be maintained.

In an effort to expedite prosecution, independent claim 1 has been amended to place a further limitation on the presently claimed step of modifying a comments portion of a program. In particular, the step of modifying has been amended to include activating a user-selectable link embedded within the comments portion. A similar limitation is recited in originally filed independent claim 15. For at least the reasons set forth in more detail below, Martin simply fails to disclose the presently claimed step of modifying a comments portion of a program by activating a user-selectable link embedded within the comments portion.

In regards to independent claim 15, the Examiner suggests that "Martin teaches a compiler 316 for generating a data set ... in response to user-activation of a link within a comments portion (part 1000b in Fig. 9) of a program ..." (Final Office Action, page 3). The Examiner further suggests that "the assignment symbol "=" in comment portion 1000b can be interpreted as links" (Final Office Action, page 6). The Applicant disagrees, for at least the reasons set forth in more detail below.

Contrary to the Examiner's suggestion, the assignment symbols "=" shown in comment portion 1000b of Martin CANNOT be interpreted as the presently claimed links. First of all, Martin does not disclose that the assignment symbols "=" shown in comment portion 1000b are user-selectable, as recited in present claim 1. In addition, there is absolutely no disclosure within Martin for activating the assignment symbols "=" in comment portion 1000b, as taught in present claims 1 and 15. As a consequence, the assignment symbols "=" shown in comment portion 1000b of Martin CANNOT be interpreted as the presently claimed links, since the presently claimed links are both user-selectable (claim 1) and capable of being activated (claims 1 and 15).

Since Martin fails to provide any other teaching for creating a data set by activating a user-selectable link (or in response to user-activation of a link) embedded within a comments portion of a program, Martin fails to anticipate all limitations of present claims 1 and 15.

Martin fails to disclose a computer program including text, which is preceded by a comments designator and succeeded by at least one link word that is adapted for modification by an on-screen pointer. Independent claim 8 recites in part, "[a] computer-usable carrier medium comprising a computer program, wherein the computer program comprises: a first text preceded by a comments designator and succeeded by at least one link word that is adapted for modification by an on-screen pointer ..." In this manner, independent claim 8 discloses one manner in which a comments portion within a program may be modified (e.g., by modifying a link word within the comments portion using an on-screen pointer).

As noted above, Martin fails to disclose the presently claimed step of modifying a comments portion of a program, and more specifically, fails to disclose that such modification is performed by activating a link (or link word) within a comments portion of the program. Thus, for at least these reasons, Martin cannot disclose a particular manner in which the comments portion is modified. For example, Martin does not disclose that a link word can be activated or modified with an on-screen pointer to modify a comments portion of the program. As a consequence, the teachings of Martin cannot be used to anticipate a computer program including text, which is preceded by a comments designator (e.g., the // symbol) and succeeded by at least one link word that is adapted for modification by an on-screen pointer, as recited in present claim 8.

However, statements in the Final Office Action suggest that "Martin teaches [a] method comprising a first text preceded by a comments [sic] designator (part 1000b in Fig. 9) and succeeded by [a] link word (col. 10, lines 9-16) that is adapted by modification by an on-screen pointer (col. 5, lines 51-60)" (Final Office Action, page 3). The Applicant respectfully disagrees, for at least the reasons set forth in more detail below.

Though Martin discloses a comments portion of a computer program (e.g., portion 1000b of Fig. 9), where the comments are preceded by a comments designator (e.g., the // symbol shown in Fig. 9), Martin does NOT disclose a link word that is adapted for modification by an on-screen pointer. The Examiner suggests that teaching for the presently claimed link word, which is adapted for modification by an on-screen pointer, can be found in column 5, lines 51-60 and column 10, lines 9-16 of Martin. Upon review of these passages, Applicant's assert that there is absolutely no mention of a link word, an on-screen pointer, or a link word adapted for modification by an on-screen pointer within the passages cited by the Examiner, or anywhere else within Martin. Consequently, the teachings of Martin cannot be used to anticipate all limitations of present claim 8.

For at least the reasons set forth above, Martin fails to anticipate all limitations of present claims 1, 8, and 15. Therefore, claims 1, 8, and 15, as well as claims dependent therefrom, are asserted to be patentably distinct over the cited art. Accordingly, removal of this rejection is respectfully requested.

Section 103 Rejections

Claims 5, 10, and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of U.S. Patent No. 6,026,233 to Shulman et al. (hereinafter "Shulman"). In addition, claims 6, 7 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Martin in view of U.S. Patent No. 4,541,048 to Propster et al. (hereinafter "Propster").

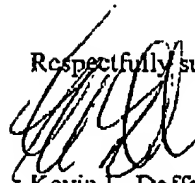
As noted above, the primary reference of Martin fails to teach or suggest all limitations of independent claims 1 and 8, as well as claims dependent therefrom (claims 5, 10, and 11). As such, no combination of Martin and the remaining cited art can be used to obviate claims 1 and 8, or the combined limitations of claims 1 or 8 with any of their dependent claims. Accordingly, removal of this rejection is respectfully requested.

CONCLUSION

This response constitutes a complete response to all issues raised in the final Office Action mailed May 20, 2004. In view of the remarks traversing the rejections, Applicants assert that pending claims 1-20 are in condition for allowance. If the Examiner has any questions, comments, or suggestions, the undersigned attorney earnestly requests a telephone conference.

No fees are required for filing this amendment; however, the Commissioner is authorized to charge any additional fees, which may be required, or credit any overpayment, to Conley Rose, P.C. Deposit Account No. 03-2769/5298-05300.

Respectfully submitted,



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